

The opinion in support of the decision being entered today was not written  
for publication and is not binding precedent of the Board.

**UNITED STATES PATENT AND TRADEMARK OFFICE**

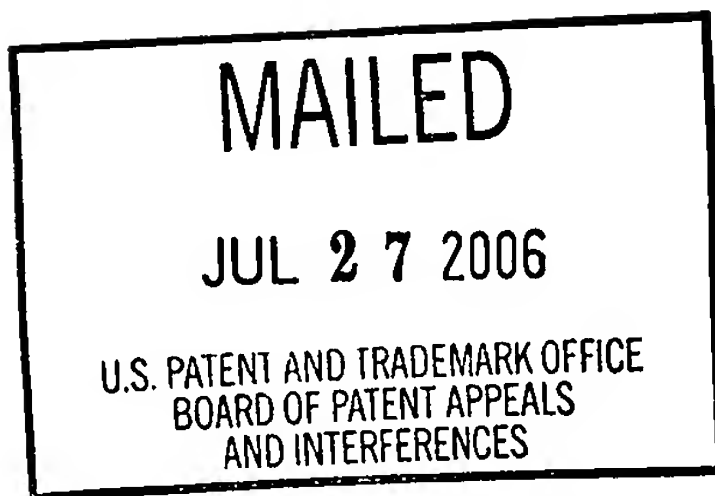
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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Ex parte JOHN UNDERBRINK and PETER C. HILL

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Appeal No. 2006-1124  
Application No. 10/652,112

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ON BRIEF

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Before CRAWFORD, BAHR, and FETTING, Administrative Patent Judges.  
CRAWFORD, Administrative Patent Judge.

**DECISION ON APPEAL**

This is a decision on appeal from the examiner's final rejection of claims 1 to 3, 5, 9 to 14, 16 and 17. Claims 4, 15 and 18 to 20 have been objected to. Claims 6 to 8 have been cancelled.

The appellants' invention relates to a folding sink (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

### THE PRIOR ART

The prior art reference of record relied upon by the examiner in rejecting the appealed claim is:

|                            |         |               |
|----------------------------|---------|---------------|
| Polakoff et al. (Polakoff) | 449,430 | Mar. 31, 1891 |
|----------------------------|---------|---------------|

### THE REJECTIONS

Claims 1 to 3, 5, 9 to 14, 16 and 17 stand rejected under 35 U.S.C. § 102(b) as anticipated by Polakoff.

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/652,111.<sup>1</sup>

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the answer (mailed November 2, 2005) for the examiner's complete reasoning in support of the rejections, and to the brief (filed September 12, 2005) and reply brief (filed December 27, 2005) for the appellants' arguments thereagainst.

### OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the

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<sup>1</sup> This is a new ground of rejection made in the answer.

respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

The examiner has rejected claim 1 under 35 U.S.C. § 102(b). We initially note that to support a rejection of a claim under 35 U.S.C. § 102(b), it must be shown that each element of the claim is found, either expressly described or under principles of inherency, in a single prior art reference. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

In support of this rejection, the examiner states:

. . . Polakoff et al. reference discloses a sink (Fig. 6). The sink includes a basin (D) and a faucet assembly (Fig. 6) having a discharge neck (at H) coupled to a faucet housing (Fig. 5) that is movably support[ed] on the basin and selectively rotatable between an upright position and a folded position (Fig. 6) [ answer at page 3].

We will not sustain this rejection as it is directed to claim 1 because we agree with the appellants that:

As seen in Figs. 4 and 5 of Polakoff, the faucet assembly F, H, H' is not supported on the basin d, but above the basin D on the horizontal partition b. As seen in Fig. 6, the faucet assembly F, H, H' is not received within the basin D (part F and most of H remain above the basin)[brief at page 3].

In this regard we do not agree with the examiner that the Polakoff basin extends to where L' is located because a basin is a washbowl or container for holding liquids (Webster II Dictionary, 1994) and the water container top is at partition b. Rather, in

our view, the basin of Polakoff ends at the partition b. As such the faucet assembly is supported on the partition b rather than the basin as required by claim 1.

In view of the foregoing, we not in agreement with the examiner's rejection of claim 1 and claims 2, 3 and 5 dependent thereon.

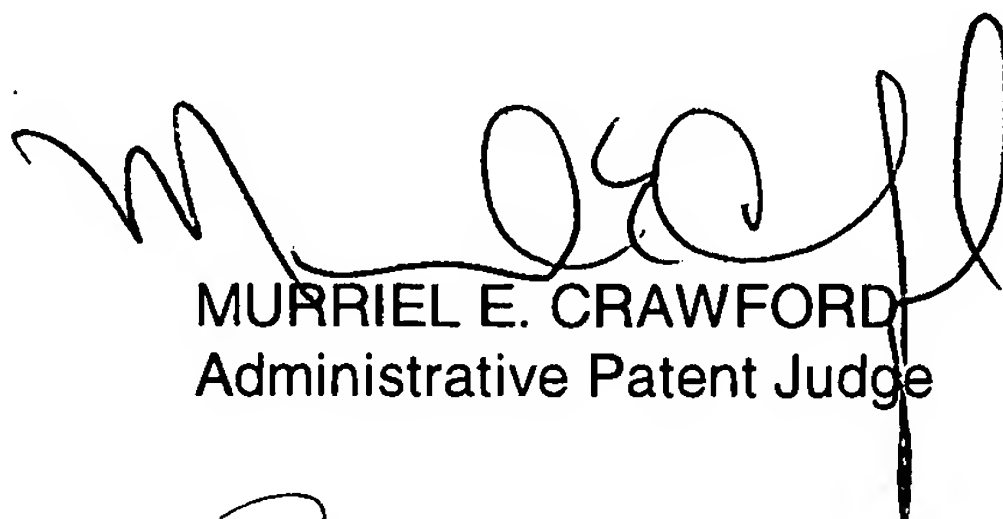
In regard to claim 9, it is our view that the faucet assembly is not attached to the basin, as required by claim 9, but is rather attached to the partition b. Therefore, we will not sustain the rejection as it is directed to claim 9 and claims 10 to 14, 16 and 17 dependent thereon.

We consider next the examiner's new ground of rejection of the claim 1 based on obviousness-type double patenting. We note that appellants have not addressed this rejection in the reply brief [reply brief, page 5]. Therefore, we will dismiss the appeal as to claim 1. See 37 CFR § 41.39(b)(2).

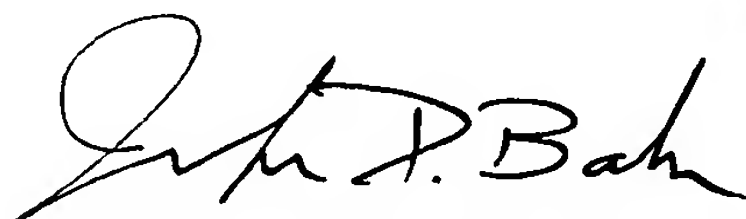
In summary, the examiner's rejection of claims 2 to 3, 5, 9 to 14, 16 and 17 under 35 U.S.C. § 103 is not sustained, the appellants' appeal of claim 1 is dismissed.

No time period for taking any subsequent action in connection with this appeal  
may be extended under 37 CFR § 1.136(a)(1)(iv).

REVERSED/DISMISSED



MURRIEL E. CRAWFORD  
Administrative Patent Judge



JENNIFER D. BAHR  
Administrative Patent Judge



ANTON W. FETTING  
Administrative Patent Judge

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